



Entered on Docket
November 08, 2011

A handwritten signature in dark ink, appearing to read "Linda B. Riegle".

Hon. Linda B. Riegle
United States Bankruptcy Judge

LEWIS AND ROCA LLP

Robert M. Charles, Jr. (NV 6593)
John Hinderaker (AZ 018024)
Marvin Ruth (NV 10979)
3993 Howard Hughes Parkway, Ste. 600
Las Vegas, Nevada 89169-5996
Telephone (702) 949-8320
Facsimile (702) 949-8321
Email: rcharles@lrlaw.com
jhinderaker@lrlaw.com
mruth@lrlaw.com

Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

**USA COMMERCIAL MORTGAGE
COMPANY,**

Debtor.

Case No. BK-S-06-10725-LBR

CHAPTER 11

**Order Sustaining Second Omnibus
Objection Of USACM Trust To Proofs Of
Claim Based Upon Investment In The
Cabernet Highlands Loan**

Hearing Date: August 30, 2011

Hearing Time: 10:30 a.m.

The Court having considered the "Second Omnibus Objection Of USACM Trust To Proofs Of Claim Based Upon Investment in The Cabernet Highlands Loan, [DE 8715] (the "Objection"); the Court having heard the Objection on August 30, 2011; appropriate notice of the Objection having been given; no response to the Objection having been filed; the Court noting on the record that the partial disallowance of the Claims listed on **Exhibit**

1 A does not affect the direct lenders' right to repayment by the borrower or from the
2 collateral securing the Cabernet Highlands Loan; and good cause appearing:

3 **IT IS ORDERED** that:

- 4 1. The Objection [DE 8715] is sustained;
- 5 2. The portion of each Claim that relates to diverted principal is hereby
6 allowed; and
- 7 3. After subtracting the diverted principal, as to the remainder of the proof of
8 claim as shown on **Exhibit A**, attached, 20% is hereby allowed and 80% is hereby
9 disallowed to the extent these claims are based upon an investment in the Cabernet
10 Highlands Loan; and
- 11 4. This order pertains only to claims related to the Cabernet Highland Loan and
12 not any other claims of the Direct Lenders.
- 13

14 **PREPARED AND RESPECTFULLY SUBMITTED BY:**

15 **LEWIS AND ROCA LLP**

16

17 By /s/ John Hinderaker (AZ #018024)

18 Robert M. Charles, Jr.

19 John Hinderaker (*pro hac vice*)

20 3993 Howard Hughes Parkway, Ste. 600

21 Las Vegas, Nevada 89169-5996

22 Telephone: (702) 949-8320

23 Facsimile: (702) 949-8321

24 *Attorneys for USACM Liquidating Trust*

25

26

LOCAL RULE 9021 CERTIFICATION

In accordance with LR 9021, counsel submitting this document certifies that the order accurately reflects the court's ruling and that (check one):

_____ This Court has waived the requirement set forth in LR 9021(b)(1).

XXX No party appeared at the hearing or filed an objection to the motion.

_____ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

Counsel appearing: _____

_____ I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order

U.S. Trustee: <u>Augie Landis</u>	
<input type="checkbox"/> approved the form of this order	<input type="checkbox"/> disapproved the form of this order
<input checked="" type="checkbox"/> waived the right to review the order and/or	<input type="checkbox"/> failed to respond to the document
Other Party: _____	
<input type="checkbox"/> approved the form of this order	<input type="checkbox"/> disapproved the form of this order
<input type="checkbox"/> waived the right to review the order and/or	<input type="checkbox"/> failed to respond to the document

Submitted by:
LEWIS AND ROCA LLP

By: /s/ John Hinderaker. (AZ #018024)
Attorneys for USACM Liquidating Trust

#

Claim	Date Claim Filed	Name	Address	Total Claim Amount Relating to the Cabernet Highlands, LLC Loan	Unremitted Principal to be Allowed as Claim Relating to the Cabernet Highlands, LLC	Approximate Amount Related to an Investment In the Cabernet Highlands, LLC Loan	Amount Disallowed (80%)	Amount Allowed (20%)
10725-00471	10/6/2006	Murphy Family Trust	Dr James & Tracy Murphy Ttees Christopher D Jaime Esq PO Box 30000 Reno, NV 89520	122,753.00	-	122,753.00	98,202.40	24,550.60
10725-01500	11/29/2006	Panagiotis Dovanidis & Aikaterini Giannopoulos	14 Mikinon St Glyfada Athens Greece 16675	50,000.00	-	50,000.00	40,000.00	10,000.00
10725-01693	12/11/2006	Westbrook, Connie	14320 Ghost Rider Dr Reno, NV 89511	22,995.75	11,538.46	11,457.29	9,165.83	2,291.46
10725-00995	11/6/2006	Yonai, Gregory D Family Trust	C/O Gregory D Yonai Trustee 1982 Country Cove Ct Las Vegas, NV 89135-1552	25,000.00	5,769.23	19,230.77	15,384.62	3,846.15

EXHIBIT A